



**COMMUNITY DEVELOPMENT COMMISSION
of the County of Los Angeles**

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**Gloria Molina
Mark Ridley-Thomas
Zev Yaroslavsky
Don Knabe
Michael D. Antonovich**
Commissioners

Sean Rogan

Executive Director

December 10, 2013

The Honorable Board of Commissioners
Community Development Commission
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Commissioners:

ADOPTED

Community Development Commission

1-D December 10, 2013

SACHI A. HAMAI
EXECUTIVE OFFICER

**APPROVE A DISPOSITION AND DEVELOPMENT TERMINATION AGREEMENT WITH ACCESS
COMMUNITY HOUSING AND RECONVEYANCE OF PROPERTIES
(DISTRICT 2) (3 VOTE)**

SUBJECT

Approval of the recommended actions will allow the Community Development Commission (Commission) to terminate a Disposition and Development Agreement (DDA) with Access Community Housing (ACH), a nonprofit public benefit corporation. Termination of the DDA will result in the reconveyance of three properties, which will then be transferred to Habitat for Humanity for development of single-family affordable housing.

IT IS RECOMMENDED THAT THE BOARD:

1. Approve and authorize the Executive Director, or his designee, to negotiate and execute a Termination of Disposition and Development Agreement with ACH for the properties located at 1232 and 1236 West 101st Street in unincorporated Athens, and 1917 East 126th Street in unincorporated Willowbrook, to accept the above reconveyed properties, and to prepare and execute any related documents, following approval as to form by County Counsel.
2. Authorize the Executive Director, or his designee, to terminate other agreements executed under the Infill Sites Utilization Program (Infill Program), following notification of the affected Supervisorial District, and to execute any related documents, following approval as to form by County Counsel.
3. Authorize the Executive Director to incorporate, as needed, up to \$80,000 in Bond Fee funds into the Commission's approved Fiscal Year 2013-14 budget for the purposes describe above.
4. Find that approval of these actions is exempt from the provisions of the California Environmental

Quality Act (CEQA) for the reasons stated in this letter and the record of the project.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended actions is to terminate a DDA with ACH, which will allow the Commission to take possession of the identified properties. The properties will then be transferred to Habitat for Humanity for development of affordable housing. The Commission may also terminate other agreements under the Infill Program as needed, following notification of the respective Supervisorial District.

FISCAL IMPACT/FINANCING

There is no impact on the County General Fund. The Commission will pay up to approximately \$31,000 for value added to the properties during predevelopment by ACH, \$15,000 for property taxes paid by ACH for years 2007 - 2010, and approximately \$32,000 in back property taxes to be paid to the County Treasurer and Tax Collector, using Bond Fee funds. Penalties accrue monthly on the unpaid property taxes for each property; therefore, the Commission is budgeting up to \$80,000 for this action.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

On August 3, 2004, your Board authorized the Executive Director to implement the Infill Program, for the acquisition, sale, or lease of infill sites of no more than four units each, to increase housing for low- and moderate-income households. Under the Infill Program, the Commission would acquire the sites, which would then be sold or leased to developers. The developers would construct the affordable housing units in the unincorporated County and jurisdictions participating in the Community Development Block Grant (CDBG) Urban County Program.

On September 26, 2005, the Commission and ACH entered into a DDA to develop three single-family, detached houses in unincorporated Los Angeles County. The houses were to be located at 1232 and 1236 W. 101st St., Los Angeles, in unincorporated Athens, and 1917 E. 126th St., Compton, in unincorporated Willowbrook (the "Sites"). At the time the DDA was executed, the Commission owned the Sites and subsequently transferred the Sites to ACH in June 2007.

Under the DDA, the homes were to be offered for sale to lower-income households, with annual incomes that would not exceed 80% of the area median income. The development of the homes was to occur under the Commission's Infill Program, where HOME Investment Partnerships Program funds and CDBG funds were made available as loans for development of for-sale housing, to be repaid from the homebuyers' first trust deeds. These funds were not used by ACH.

ACH did not start or complete construction of the homes, and the Sites remain vacant. ACH states that it was unable to develop the Sites due to the downturn in the economy following execution of the DDA and the decline of the housing market. Furthermore, the cost of ACH developing the Sites now would exceed the projected sales prices in today's market.

To meet the objective of developing the Sites for affordable housing, the DDA with ACH will be terminated, the Commission will take possession of the Sites, and the Sites will then be transferred to Habitat for Humanity.

Because ACH invested funds in predevelopment activities that added value to the Sites, ACH will be

reimbursed for this investment as part of the DDA Termination Agreement. The Commission will reimburse ACH for expenses only when evidenced by verifiable documentation showing the expense was paid.

Expenditures by ACH included school, library and sewer fees, which will not have to be paid by Habitat for Humanity when it develops the Sites. ACH will also be reimbursed for expenses related to clearing and maintaining the Sites. There is approximately \$32,000 in unpaid property taxes for tax years 2011-2013, which the Commission will pay the County Treasurer and Tax Collector upon acceptance of the reconveyed Sites. The properties accrue a monthly penalty amount of approximately \$92 for the property on East 126th Street and \$132 each for the properties on West 101st Street.

On October 15, 2013, your Board authorized the Commission to transfer to Habitat for Humanity Commission-owned parcels that were identified as suitable for affordable, single-family development. These properties will be transferred to Habitat under that authority.

The Termination of Disposition and Development Agreement is attached in substantially final form.

ENVIRONMENTAL DOCUMENTATION

Pursuant to 24 Code of Federal Regulation, Part 58, Section 58.35 (a) (4)(i), these actions are excluded from the National Environmental Policy Act because they will not alter existing environmental conditions. The actions are categorically exempt from the provisions of CEQA. These actions are within a class of projects that have been determined not to have a significant effect on the environment in that they meet the criteria set forth in Section 15301 of the CEQA Guidelines and Class 1 of the County's Environmental Document Reporting Procedures and Guidelines, Appendix G. In addition, the project is not in a sensitive environment, and there are no cumulative impacts, unusual circumstances, or other limiting factors that would make the exemption inapplicable based on the project records.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The Termination of Disposition and Development Agreement will allow for the Commission to regain possession of properties that were under a non-performing DDA and transfer those properties to Habitat for Humanity, which will provide single-family affordable housing opportunities in Los Angeles County.

The Honorable Board of Supervisors

12/10/2013

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sean Rogan", followed by a horizontal line extending to the right.

SEAN ROGAN

Executive Director

SR:ml

Enclosures

**TERMINATION OF DISPOSITION AND DEVELOPMENT AGREEMENT
BETWEEN THE COMMUNITY DEVELOPMENT COMMISSION
OF THE COUNTY OF LOS ANGELES AND
ACCESS COMMUNITY HOUSING**

This Termination of Disposition and Development Agreement (“Agreement”) is made and entered into this _____ day of _____, 2013, for reference purposes only, by and between the COMMUNITY DEVELOPMENT COMMISSION OF THE COUNTY OF LOS ANGELES, a public body, corporate and politic, (“Commission”), and ACCESS COMMUNITY HOUSING, a nonprofit public benefit corporation, (“Developer”) (hereinafter collectively known as "Parties"). Unless the context indicates to the contrary, capitalized terms used in this Agreement shall have the definitions set forth in the Disposition and Development Agreement (“DDA”), defined below.

RECITALS

WHEREAS, at its meeting of August 3, 2004, the Board of Commissioners of the Commission authorized the Executive Director of the Commission to implement the Infill Sites Utilization Program ("Infill Program"), for the acquisition, sale, or lease of infill sites of no more than four units each, to increase housing for low- and moderate-income household in the unincorporated County and agencies participating in the CDBG Urban County Program;

WHEREAS, the Infill Program provided that sites be sold or leased to developers to implement the Infill Program for each infill development for site acquisition, pre-development, construction and permanent financing, using Home Investment Partnerships ("HOME") Program funds and Community Development Block Grant ("CDBG") funds allocated to each Supervisorial District;

WHEREAS, on September 26, 2005, Commission and Developer entered into the DDA to undertake a housing development project for three homes located at parcels described on Exhibit "B", Site Legal Description, of the DDA, which provided for the commitment of CDBG funds and disposition of the Sites, subject to the conditions set forth therein;

WHEREAS, the Commission acquired Parcel 1, Parcel 2, and Parcel 3 ("Sites") specifically described in, Exhibit "B", Site Legal Description, of the DDA, with CDBG funds;

WHEREAS, Commission agreed to convey the Sites to Developer in exchange for the Land Acquisition Promissory Note ("Purchase Note") and secured by a Deed of Trust (the “Purchase Deed of Trust”) for construction and development of the Sites and ensure that the affordability and habitability of the project is maintained in accordance with the terms of those instruments and the DDA;

WHEREAS, Developer was to obtain other sources of financing to develop the Sites, as set forth in the DDA Transaction Summary, to include construction financing from a senior construction lender approved by Commission; however the loan was never obtained by Developer;

WHEREAS, Developer did not engage in development of the Sites due to the downturn in the economy and the falling sales of homes in the real estate market in and around the Sites;

WHEREAS, Developer has expended predevelopment funds for school, library and sewer fees that add value to the land, costs related to clearing and maintaining the lots, and property taxes for 2008-2010 tax years;

WHEREAS, Developer believes that the market for the development and sale of low-and moderate income homes in this area would not be successful; therefore Developer desires to convey title for the Sites back to Commission in accordance with the terms and conditions of this Agreement.

The Parties hereto, desiring to terminate the DDA and resolve all of their mutual duties and obligations arising from the DDA, agree to compromise, settle and release their duties and obligations arising out of the DDA on the terms contained in this Agreement. In light of the mutual promises and obligations herein and for good and valuable consideration, it is hereby agreed as follows:

1. The DDA is terminated and shall have no further force or effect. Any remaining duties, obligations or benefits of Developer or Commission are waived and released. This termination shall not affect any duties performed or benefits or titles received by Developer or Commission pursuant to the terms of the DDA prior to the execution of this Agreement;

2. Developer warrants that the Sites are free of any and all title defects, including any lien (other than recognized tax lien), charge, encumbrance, obligation, defect, or any other matter that would cause Developer not to have marketable title to the Sites. Developer shall provide, at Developer's sole expense, a title report showing clean title, in a form acceptable to the Commission and dated within 14 days of the transfer of the Sites. Developer also warrants that the Sites are free of trash, dumped objects and debris at the time of transfer.

3. As a condition of Developer returning the Sites to Commission, and after Commission takes possession of the Sites, Commission will reimburse Developer for value-added expenses and property taxes related to predevelopment activities in the amount of \$44,892.11, as described in Attachment 1 to this Agreement. Commission will reimburse Developer for the items described in Attachment 1 only upon receipt of a payment request from Developer that shows actual payment by Developer for each identified item, as evidenced by cancelled checks, or other evidence of payment acceptable to the Commission.

4. Developer, and each of them, for themselves and all of their predecessors, successors, assigns, representatives, attorneys, employees, officers, and agents, elective and appointive, do hereby fully release and discharge Commission and their related corporate entities, officers, directors, employees, agents, independent contractors, insurers, attorneys, subsidiaries, affiliates, assigns and successors, and each of them, of and from any and all claims, demands, rights, damages, costs, or causes of action, litigation expenses, attorneys fees, expert fees, consultant fees, other fees, interest, lost profits and earnings, any other damages, costs or

expenses, suspected or unsuspected, arising (whether by negligence, intentional or unintentional action, statute, strict liability or otherwise), from or in any way related to, directly or indirectly, the DDA, the Purchase Note, the Purchase Deed of Trust, the CDBG Note, the CDBG Deed of Trust and any agreements related thereto;

5. Commission, and each of them, for themselves and all of their predecessors, successors, assigns, representatives, attorneys, employees, officers, and agents, elective and appointive, do hereby fully release and discharge Developers and their related corporate entities, officers, directors, employees, agents, independent contractors, insurers, attorneys, subsidiaries, affiliates, assigns and successors, and each of them, of and from any and all claims, demands, rights, damages, costs, or causes of action, litigation expenses, attorneys fees, expert fees, consultant fees, other fees, interest, lost profits and earnings, any other damages, costs or expenses, suspected or unsuspected, arising from or in any way related to, directly or indirectly, the DDA;

6. It is the intention of Developer and Commission in executing this Agreement and receiving the considerations recited herein, that this Agreement will be effective as a full and final accord and satisfaction and general release and waiver of all claims, debts, damages, liabilities, demands, obligations, costs, expenses, disputes, actions or causes of action, that Developer and Commission may have against each other by reason of any acts, circumstances or transactions relating in any way to the DDA and occurring before the date of this Agreement. In furtherance of this intention, the Parties hereby acknowledge that they are familiar with California Civil Code Section 1542 and that they hereby expressly waive the protection of that section, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR EXPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

Developer and Commission each waive and relinquish any right or benefit that they have or may have under California Civil Code Section 1542.

7. Each party hereto warrants that he, she or it has not been induced to enter into or execute this Agreement on the basis of any statement or promise of any other party, unless otherwise expressly set forth in this Agreement;

8. Each party hereto acknowledges this Agreement is an integrated document with respect to the matters released herein. Each party therefore agrees to make no claim, and hereby waives any such right he, she or it has or may have, based upon any oral or written alteration, amendment, explanation or modification of this Agreement;

9. Each party hereto intends this Agreement shall be the final accord and satisfaction as to the matters released herein, regardless of any claims by any party hereto that he, she or it has been induced to execute this Agreement on the basis of fraud, misrepresentation or

concealment, or that a change has taken place as to legal circumstances (statutory, judicial, regulatory or otherwise);

10. Each party hereto agrees any future change or modification to this Agreement must be in writing and signed by the parties hereto;

11. Each party hereto represents that, in executing this Agreement, he, she or it does so with full knowledge of any rights which he, she or it may have with respect to any matters released herein and that he, she or it has received independent legal advice from his, her or its attorneys with regard to such matters and with respect to any rights arising therefrom;

12. Each party hereto agrees that this Agreement is not intended to be nor will it be alleged to constitute evidence or be an admission by the other party of any liability, omission or wrongdoing of any kind whatsoever, nor shall this Agreement be offered or received into evidence or otherwise filed or lodged in any proceeding against the other party, except as may be necessary to prove or enforce the terms of this Agreement;

13. Each party hereto represents that he, she or it has the sole right and exclusive authority to execute this Agreement on his, her or its behalf, that to such party's knowledge no other person or entity has or had any interest in any matters released herein, and that he, she or it has not assigned or transferred or purported to assign or transfer to any person or entity such matters, or any part or portion thereof;

14. This Agreement and the covenants and conditions contained herein shall obligate, bind, extend to and inure to the benefit of the parties and each of their respective successors, transferees, assigns, heirs and representatives;

15. This Agreement shall not be construed against the party preparing it, but shall be construed as if all Parties jointly prepared this Agreement. Any uncertainty and ambiguity shall not be interpreted against anyone party. Language in all parts of the Agreement shall be in all cases construed as a whole according to its plain meaning;

16. Each party shall bear its own attorneys fees, consultant fees, expert fees and costs, including the costs of preparing this Agreement;

17. This Agreement may be executed in duplicate counterparts, each of which shall be deemed an original when all original signatures are affixed to that copy of this Agreement;

18. The warranties and representations made in this Agreement are deemed to survive the execution of this Agreement;

19. Each party hereto agrees to perform such other acts, including without limitation the execution and delivery of documents, as reasonably may be required to carry out the purposes and provisions of this Agreement.

BY SIGNING THIS AGREEMENT, THE PARTIES CERTIFY THAT THEY HAVE READ IT, THAT THEY HAVE CONSULTED WITH THEIR LEGAL COUNSEL ABOUT ITS EFFECT, AND THEY THE FULLY UNDERSTAND IT.

The parties have caused this Agreement to be executed by their duly authorized representatives.

COMMISSION:

COMMUNITY DEVELOPMENT
COMMISSION OF THE COUNTY OF
LOS ANGELES

DEVELOPER:

ACCESS COMMUNITY HOUSING,
INC.

BY: _____
SEAN ROGAN
Executive Director

BY: _____
HERB CHILD
Executive Director

APPROVED AS TO PROGRAM:
ECONOMIC AND HOUSING
DEVELOPMENT DIVISION

BY: _____
CORDÉ D. CARRILLO
Director

APPROVED AS TO FORM:
John F. Krattli
County Counsel

BY: _____
Deputy

ATTACHMENT 1

VALUE ADDED EXPENSES AND PROPERTY TAXES

ACCESS COMMUNITY HOUSING - VALUE ADDED EXPENSES AND PROPERTY TAXES					
	Description	Date	Amount	Comments	Total
1917 E. 126th St.					
	DRP - Cert. of Compliance	1/11/2006	\$1,394.00		
	Library Fees	9/14/2006	\$738.00		
	School Fees	9/15/2006	\$5,299.20		
	Sewer Fees	4/11/2006	\$1,660.00		
	Lot Cleanup	9/9/2011	\$650.00		
				Subtotal Value Added Expenses	\$9,741.20
	Property Taxes 2008/2009a	11/17/2008	\$786.21		
	Property Taxes 2008/2009b	4/1/2009	\$786.20		
	Property Taxes 2009/2010a	12/10/2009	\$816.86		
	Property Taxes 2009/2010b	4/5/2010	\$816.86		
	Property Taxes 2010-2013	* Not Paid - Estimated at \$8,253			
				Subtotal Property Taxes Paid	\$3,206.13
1232 W. 101st St.					
	Library Fees	9/14/2006	\$743.00		
	School Fees	9/15/2006	\$7,603.20		
	Sewer Fees	4/11/2006	\$1,660.00		
	Lot Cleanup	9/9/2011	\$250.00		
				Subtotal Value Added Expenses	\$10,256.20
	Property Taxes 2008/2009a	11/17/2008	\$1,289.34		
	Property Taxes 2008/2009b	4/1/2009	\$1,289.33		
	Property Taxes 2009/2010a	12/10/2009	\$1,343.58		
	Property Taxes 2009/2010b	4/5/2010	\$1,343.59		
	Property Taxes 2010-2013	*Not Paid - Estimated at 11,877			
				Subtotal Property Taxes Paid	\$5,265.84
1236 W. 101st St.					
	Library Fees	9/14/2006	\$743.00		
	School Fees	9/15/2006	\$7,603.20		
	Sewer Fees	4/11/2006	\$1,660.00		
	Lot Cleanup	9/9/2011	\$250.00		
				Subtotal Value Added Expenses	\$10,256.20
	Property Taxes 2008/2009a	11/17/2008	\$1,289.34		
	Property Taxes 2008/2009b	4/1/2009	\$2,191.84		
	Property Taxes 2009/2010a	12/10/2009	\$1,341.78		
	Property Taxes 2009/2010b	4/5/2010	\$1,343.58		
	Property Taxes 2010-2013	*Not Paid - Estimated at 11,862			
				Subtotal Property Taxes Paid	\$6,166.54

Total Value Added Expenses	\$30,253.60
Total Property Taxes Paid	\$14,638.51
*Total Prop. Taxes Not Paid (Est)	\$31,992.00
Grand Total	\$76,884.11